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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,711	12/21/2001	Akira Imaizumi	217576US0	6895
38108 7590 01/29/2007 CERMAK & KENEALY LLP ACS LLC 515 EAST BRADDOCK ROAD SUITE B ALEXANDRIA, VA 22314			EXAMINER FRONDA, CHRISTIAN L	
			ART UNIT 1652	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/29/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/023,711	IMAZUMI ET AL.	
	Examiner	Art Unit	
	Christian L. Fronda	1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7,10 and 12 is/are rejected.
- 7) ☒ Claim(s) 6 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1, 6, 7, and 10-12 are pending and under consideration in this Office Action.
2. The objection to claims 1, 6, 7, and 10-12 have been withdrawn in view of applicants' arguments filed 11/10/2006.

Claim Rejections - 35 U.S.C. § 112, 1st Paragraph

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 1, 7, 10, 12 stand are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method for a method for producing L-lysine, L-glutamic acid, and L-tryptophan using an *Escherichia coli* bacterium whose endogenous RMF protein is mutated so that the RMF protein is inactive; does not reasonably provide enablement for any other embodiment as recited in the claims. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. Applicants' arguments filed 11/10/2006 have been fully considered but are not persuasive. The examiner respectfully disagrees with applicants' position for reasons of record as supplemented below that one of ordinary skill in the art would be able to predict that production of L-amino acids other than L-lysine, L-glutamic acid, and L-tryptophan in an *Escherichia coli* bacterium where the endogenous *Escherichia coli* gene encoding the RMF protein is mutated so that the RMF protein is inactive.
As previously stated, the nature and breadth of the claims encompass any method for the production of any L-amino acid using an *Escherichia coli* bacterium whose endogenous RMF protein is mutated so that the RMF protein is inactive. The specification provides guidance and working examples for an *Escherichia coli* bacterium having its endogenous RMF protein inactivated which produces L-lysine (Example 2 of the instant specification), L-glutamic acid (shown in the declaration of Akira Imaizumi filed 03/28/2005), and L-tryptophan (shown in the declaration of Akira Imaizumi filed 05/05/2006).
However, the specification and the Declarations under C.F.R. §1.132 submitted 03/28/2005 and 05/10/2006 do not provide guidance, prediction, and working examples for any

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other L-amino acid that can be produced by an *Escherichia coli* bacterium having its endogenous RMF protein inactivated. It is not clear how overproduction of L-lysine, L-glutamic acid, and L-tryptophan would lead to overproduction of any other L-amino acid. Thus, an undue amount of trial and error experimentation must be preformed where such experimentation involves inactivating the endogenous RMF protein in any *E.coli* bacterium, culturing the bacterium in any medium, and searching and screening for any L-amino acid that can be produced.

General teaching regarding screening and searching for the claimed invention is not guidance for making the claimed invention. Thus, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

Conclusion

5. No claim is allowed.

6. Claim 6 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

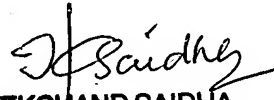
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian L Fronda whose telephone number is (571)272-0929. The examiner can normally be reached Monday-Friday between 9:00AM - 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura N Achutamurthy can be reached on (571)272-0928. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLF


TEKCHAND SAIDHA
PRIMARY EXAMINER